

USE OF RECEIPTS FROM MINERAL LEASING ACTIVITIES ON
NAVAL OIL SHALE RESERVES

SEPTEMBER 10, 2001.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. HANSEN, from the Committee on Resources,
submitted the following

REPORT

[To accompany H.R. 2187]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 2187) to amend title 10, United States Code, to make receipts collected from mineral leasing activities on certain naval oil shale reserves available to cover environmental restoration, waste management, and environmental compliance costs incurred by the United States with respect to the reserves, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. USE OF RECEIPTS FROM MINERAL LEASING ACTIVITIES ON CERTAIN NAVAL OIL SHALE RESERVES.

Section 7439 of title 10, United States Code, is amended—

(1) in subsection (f)(1), by striking the second sentence; and

(2) by adding at the end the following new subsection:

“(g) USE OF RECEIPTS.—(1) The Secretary of the Interior may use, without further appropriation, not more than \$1,500,000 of the moneys covered into the Treasury under subsection (f)(1) to cover the cost of any additional analysis, site characterization, and geotechnical studies deemed necessary by the Secretary to support environmental restoration, waste management, or environmental compliance with respect to Oil Shale Reserve Numbered 3. Upon the completion of such studies, the Secretary of the Interior shall submit to Congress a report containing—

“(A) the results and conclusions of such studies; and

“(B) an estimate of the total cost of the Secretary’s preferred alternative to address environmental restoration, waste management, and environmental compliance needs at Oil Shale Reserve Numbered 3.

“(2) If the cost estimate required by paragraph (1)(B) does not exceed the total of the moneys covered into the Treasury under subsection (f)(1) and remaining available for obligation as of the date of submission of the report under paragraph (1), the Secretary of the Interior may access such moneys, beginning 60 days after

submission of the report and without further appropriation, to cover the costs of implementing the preferred alternative to address environmental restoration, waste management, and environmental compliance needs at Oil Shale Reserve Numbered 3. If the cost estimate exceeds such available moneys, the Secretary of the Interior may only access such moneys as authorized by subsequent Act of Congress.”.

PURPOSE OF THE BILL

The purpose of H.R. 2187 is to make receipts collected from mineral leasing activities on certain naval oil shale reserves available to cover environmental restoration, waste management, and environmental compliance costs incurred by the United States with respect to the reserves.

BACKGROUND AND NEED FOR LEGISLATION

Tracts of federal land known as Naval Oil Shale Reserves (NOSRs) Numbered 1 and 3 lie within the Piceance Basin of northwestern Colorado. The NOSRs were originally reserved from the public domain in the 1920s when the Naval Petroleum Reserves were established as a future source of fuel for the Navy. At that time, the oil shale deposits they held were thought to hold promise as an abundant source of oil. Upon establishment of the Department of Energy (DOE) during the Carter Administration, administrative control of the NOSRs was shifted from the Department of Defense to DOE.

Decades ago, the former Bureau of Mines of the Department of Interior (DOI) studied oil shale extraction and built an experimental facility near Rifle, Colorado, known as Anvil Points. These efforts proved unfeasible and were discontinued. However, in the course of the experiment, spent oil shale was deposited in a large tailings dam facility in a ravine adjacent to a tributary of the Colorado River. Recent studies conducted by the Bureau of Land Management (BLM) and the State of Colorado determined that arsenic and other heavy metals are leaching from this pile into the surface and ground waters, posing a threat to human health and the environment.

Beneath these oil shale deposits also lie oil and gas-bearing strata, and the DOE operated gas wells within NOSR 3 for several years. However, the DOE owned these wells outright and was not required to follow the provisions of the 1920 Mineral Leasing Act which requires the sharing of mineral receipts with states which host federal production. The Strom Thurmond National Defense Act for Fiscal Year 1998 (P.L. 105–85) transferred the administration and minerals management of NOSRs 1 and 3 from the DOE to DOI and directed the Secretary of the Interior to hold a lease sale for oil and gas pursuant to the 1920 Mineral Leasing Act. The provision specifically stated that receipts from the lease sale and royalties collected thereafter were to be used for the “reimbursement of environmental restoration, waste management, and environmental compliance costs incurred by the United States with respect to the lands transferred * * *” [P.L. 105–85, Title XXXIV, Sec. 3404(a)].

In addition, the royalties were to be used to reimburse the federal government for the capital costs incurred by DOE to install the gas wells and gas lines infrastructure. A competitive lease sale

was held by BLM in 1999 and ownership of the gas leases and infrastructure was transferred to the highest commercial bidder.

Under P.L. 105–85, once the Secretary of Energy and Secretary of Interior jointly certify to Congress that the environmental restoration has taken place and that the federal government has been reimbursed for the capital investment in the original gas wells, the royalties received thereafter shall be subject to the traditional state revenue sharing arrangement pursuant to the 1920 Mineral Leasing Act.

Finally, P.L. 105–85 made the receipt and utilization of royalties derived from this sale subject to a specific Congressional authorization. H.R. 2187 provides such an authorization. Without its passage, the Secretary of Interior lacks the authority to use receipts from gas leasing for the stated environmental remediation, reimbursement of federal capital costs, or eventual revenue sharing with the states. Once enacted, the Secretary of Interior and the BLM will be able to work with the State of Colorado in contracting for cleanup of the leaching tailings over the next five fiscal years, limited by the funds available from leasing.

COMMITTEE ACTION

H.R. 2187 was introduced on June 14, 2001, by Congressman Joel Hefley (R–CO) and referred to the Committee on Resources and, in addition, to the Committee on Energy and Commerce. On June 20, 2001, the bill was referred to the Subcommittee on Energy and Mineral Resources of the Resources Committee. On June 26, 2001, the Subcommittee held a hearing on the bill. On June 27, 2001, the Full Resources Committee met to mark up the bill. The Subcommittee on Energy and Mineral Resources was discharged from further consideration by unanimous consent. An amendment in the nature of a substitute was offered by Congresswoman Barbara Cubin (R–WY) to include conditions and limitations on the expenditure of receipts and to require a report to Congress from the Secretary of the Interior. The amendment was agreed to by voice vote. There were no other amendments offered. The bill, as amended, was then ordered favorably reported to the House by voice vote.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8, and Article IV, section 3 of the Constitution of the United States grant Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. *Cost of Legislation.*—Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that Rule provides that this requirement does not apply when the Committee has in-

cluded in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. *Congressional Budget Act.*—As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, credit authority, or an increase or decrease in revenues or tax expenditures. According to the Congressional Budget Office, this bill would increase direct spending by about \$23 million over the 2002–2011 time period. However, spending could be less than that amount depending upon the method of environmental restoration chosen by the Department of Interior.

3. *General Performance Goals and Objectives.*—As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to make receipts collected from mineral leasing activities on certain naval oil shale reserves available to cover environmental restoration, waste management, and environmental compliance costs incurred by the United States with respect to the reserves.

4. *Congressional Budget Office Cost Estimate.*—Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 17, 2001.

Hon. JAMES V. HANSEN,
Chairman, Committee on Resources,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2187, a bill to amend title 10, United States Code, to make receipts collected from mineral leasing activities on certain naval oil shale reserves available to cover environmental restoration, waste management, and environmental compliance costs incurred by the United States with respect to the reserves.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Megan Carroll.

Sincerely,

STEVEN M. LIEBERMAN
(For Dan L. Crippen, Director).

Enclosure.

H.R. 2187—A bill to amend title 10, United States Code, to make receipts collected from mineral leasing activities on certain naval oil shale reserves available to cover environmental restoration, waste management, and environmental compliance costs incurred by the United States with respect to the reserves

Summary: CBO estimates that enacting H.R. 2187 would increase direct spending by about \$23 million over the 2002–2011 period, primarily for cleanup costs at an oil shale retorting facility in

Colorado. Spending under the bill could be lower than that amount, however, depending on the environmental cleanup option selected by the Department of the Interior. Because the bill would affect direct spending, pay-as-you-go procedures would apply. H.R. 2187 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments. Enacting this legislation probably would benefit the state of Colorado.

H.R. 2187 would amend current law to allow the Secretary of the Interior to spend certain mineral receipts from two naval oil shale reserves in Colorado to study the environmental cleanup costs at an oil shale retorting facility that was formerly operated by the federal government within one of those reserves. The bill would direct the Secretary to report the results of the study to the Congress, outline a preferred alternative for addressing environmental contamination at the site, and estimate the cost of that preferred alternative. Under H.R. 2187, if the estimated cost of the cleanup project is less than the mineral receipts available under the bill, the Secretary could spend the mineral receipts, without further appropriation, to implement the preferred alternative.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 2187 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—					
	2001	2002	2003	2004	2005	2006
CHANGES IN DIRECT SPENDING						
Estimated budget authority	0	2	0	20	0	0
Estimated outlays	0	1	1	7	6	3

Basis of estimate

CBO estimates that enacting H.R. 2187 would increase direct spending for environmental analyses and cleanup by \$22 million over the 2002–2011 period. We also estimate that the bill would increase direct spending by \$1 million in 2011 for payments of certain mineral receipts to Colorado. (Additional payments would continue after 2011, while the reserves continue to produce mineral resources.) For this estimate, CBO assumes that H.R. 2187 will be enacted by the start of fiscal year 2002. Estimates of outlays are based on historical spending rates for similar activities.

Environmental analyses and restoration

H.R. 2187 would authorize the Secretary of the Interior to spend up to \$1.5 million from mineral receipts identified in the bill to study the extent of contamination from the retorted oil shale pile at Anvil Points in Colorado. The bill would direct the Secretary to report to the Congress on the study's findings and the estimated cost of the Bureau of Land Management (BLM) plan for cleaning up the site. Based on information from BLM, we estimate that the agency would spend \$1.5 million for these activities during the 2002–2003 period.

Within 60 days of submitting the report, H.R. 2187 would authorize the Secretary to spend, without further appropriation, additional receipts necessary to implement the preferred plan, provided

that its estimated cost does not exceed the mineral receipts that are available for obligation at that time. Based on information from BLM, CBO expects that the agency would submit its report by the start of fiscal year 2004. According to BLM, the agency is considering several preliminary cleanup options with estimated costs ranging from about \$1 million to \$20 million. The most expensive option involves transporting waste to an offsite disposal facility, and is considered the most effective remedy by BLM.

Because the extent of environmental damage at the site is unknown, the cost of BLM's cleanup plan is uncertain. Based on information from BLM regarding anticipated levels of natural gas production from the reserves, we estimate that after the costs of the study and report have been covered, remaining mineral receipts identified in the bill will total \$20 million by 2004, when we expect the cleanup project could begin. We estimate that enacting H.R. 2187 would increase direct spending for environmental cleanup by \$20 million over the 2004–2011 period. If BLM is able to develop a suitable and a less costly cleanup alternative, the direct spending cost to implement this provision would be reduced.

Receipt-sharing payments to Colorado

Under current law, mineral receipts generated by the reserves identified in H.R. 2187 cannot be shared with the state of Colorado until the Secretaries of the interior and Energy certify that cumulative receipts are sufficient to offset the costs of the environmental cleanup projects and the Department of Energy's (DOE's) costs to install and operate several gas wells within the reserves. According to DOE, it spent about \$38 million to develop these wells. Based on information from BLM regarding the anticipated level of annual receipts from the reserves in the future, CBO expects that the Secretaries' certification would occur during 2011, and that \$1 million would be paid to Colorado in that year. Additional payment would continue after 2011, while the reserves continue to generate mineral receipts.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

	By fiscal year, in millions of dollars—										
	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Changes in outlays	0	1	1	7	6	3	3	1	0	0	1
Changes in receipts	Not applicable										

Estimated impact on State, local, and tribal governments: H.R. 2187 contains no intergovernmental mandates as defined in UMRA and would impose no costs on State, local, or tribal governments. Enacting this legislation probably would benefit Colorado by allowing the state to begin receiving a share of the receipts from the leases earlier than under current law.

Estimated impact on the private sector: The bill contains no new private-sector mandates as defined in UMRA.

Estimate prepared by: Federal costs: Megan Carroll; Impact on State, local, and tribal governments: Scott Masters; Impact on the Private sector: Lauren Marks.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 7439 OF TITLE 10, UNITED STATES CODE

§ 7439. Certain oil shale reserves: transfer of jurisdiction and petroleum exploration, development, and production

(a) * * *

* * * * *

(f) TREATMENT OF RECEIPTS.—(1) Notwithstanding section 35 of the Mineral Leasing Act (30 U.S.C. 191), all moneys received during the period specified in paragraph (2) from a lease under this section (including moneys in the form of sales, bonuses, royalties (including interest charges collected under the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.)), and rentals) shall be covered into the Treasury of the United States and shall not be subject to distribution to the States pursuant to subsection (a) of such section 35. [Subject to a specific authorization and appropriation for this purpose, such moneys may be used for reimbursement of environmental restoration, waste management, and environmental compliance costs incurred by the United States with respect to the lands transferred under subsection (a).]

* * * * *

(g) USE OF RECEIPTS.—(1) *The Secretary of the Interior may use, without further appropriation, not more than \$1,500,000 of the moneys covered into the Treasury under subsection (f)(1) to cover the cost of any additional analysis, site characterization, and geotechnical studies deemed necessary by the Secretary to support environmental restoration, waste management, or environmental compliance with respect to Oil Shale Reserve Numbered 3. Upon the completion of such studies, the Secretary of the Interior shall submit to Congress a report containing—*

(A) the results and conclusions of such studies; and

(B) an estimate of the total cost of the Secretary's preferred alternative to address environmental restoration, waste man-

agement, and environmental compliance needs at Oil Shale Reserve Numbered 3.

(2) If the cost estimate required by paragraph (1)(B) does not exceed the total of the moneys covered into the Treasury under subsection (f)(1) and remaining available for obligation as of the date of submission of the report under paragraph (1), the Secretary of the Interior may access such moneys, beginning 60 days after submission of the report and without further appropriation, to cover the costs of implementing the preferred alternative to address environmental restoration, waste management, and environmental compliance needs at Oil Shale Reserve Numbered 3. If the cost estimate exceeds such available moneys, the Secretary of the Interior may only access such moneys as authorized by subsequent Act of Congress.

A P P E N D I X

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, July 26, 2001.

Hon. JAMES V. HANSEN,
*Chairman, Committee on Resources,
Longworth House Office Building, Washington, DC.*

DEAR CHAIRMAN HANSEN: I am writing with regard to H.R. 2187, which was ordered reported with an amendment in the nature of a substance by the Committee on Resources on June 27, 2001. As you know, the Committee on Energy and Commerce was named as an additional Committee of jurisdiction upon the bill's introduction.

I recognize your desire to bring this bill before the House in an expeditious manner. Accordingly, I will not exercise the Committee's right to exercise its referral. By agreeing to waive its consideration of the bill, however, the Energy and Commerce Committee does not waive its jurisdiction over H.R. 2187. In addition, the Energy and Commerce Committee reserves its authority to seek conferees on any provisions of the bill that are within its jurisdiction during any House-Senate conference that may be convened on this or similar legislation. I ask for your commitment to support any request by the Energy and Commerce Committee for conferees on H.R. 2187 or similar legislation.

I request that you include this letter as a part of the Committee's report on H.R. 2187 and in the Congressional Record during debate on its provisions. Thank you for your attention to these matters.

Sincerely,

W.J. "BILLY" TAUZIN,
Chairman.

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